

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

AN INVESTIGATION OF THE)
CONDITION OF VERNA HILLS, LTD) CASE NO. 9389

O R D E R

On July 26, 1985, the Commission issued an Order pursuant to KRS 278.250 to investigate the condition of Verna Hills, Ltd. ("Verna Hills"). On August 29, 1985, a hearing was held in the offices of the Commission in Frankfort, Kentucky. At the hearing Donald Bates, President of Verna Hills testified about the financial and physical condition of the facility. Several customers of Verna Hills were present at the hearing and gave testimony. Some of the topics of discussion included Verna Hills' customer complaints, treatment plant service problems, and Verna Hills' lack of adequate revenues.

Background

Verna Hills owns and operates a sewage treatment facility serving Verna Hills Subdivision in Clark County, Kentucky. The treatment plant was constructed and put into operation in 1972 by Donald Bates, the sole shareholder and President. On July 1, 1977, the Division of Water issued an Operational Permit (No. 05020060) for this system. In an administrative conference between a representative of Verna Hills and the Division of Water,

held on September 20, 1983, an agreed Order between Verna Hills and the Division of Water was prepared which required Verna Hills to (1) obtain the services of a certified wastewater treatment system operator by November 15, 1983, (2) submit quarterly discharge monitoring reports as required by the operation permit and (3) pay a civil penalty in the amount of \$500. The Division of Water agreed to probate the penalty for one year because the facilities were generally maintained in good operating condition and because Mr. Bates was filing a personal bankruptcy claim.

On October 5, 1984, the Commission was informed by the Division of Water that Verna Hills had not complied with the conditions of the September 20, 1983, Order and that it was recommended that the probated civil penalty be enforced. The Commission's Division of Utility Engineering and Service inspected the Verna Hills Sewage Treatment Plant, and on October 8, 1984, issued a report detailing the improvements and/or corrections necessary to bring the sewer facility into compliance with the Commission's rules and regulations. To date these required improvements and/or corrections have not been made. In addition, the Commission has received numerous protest letters and phone calls from customers of Verna Hills during this period. Their major concerns were the quality of service and the management of Verna Hills.

Discussion

The maintenance of Verna Hills' sewer treatment plant has for some time been ignored as evidenced by the admission of Mr.

Bates and the inspection reports prepared by both the Commission and the Division of Water.¹ Both reports focused on several major problems with Verna Hills' treatment plant. These problems included the need for the repair or replacement of the comminutor, the air diffusers, the No. 1 blower, the No. 2 blower, and the chlorination unit, the cleaning of the clarifier, and the cleaning of the tertiary lagoon. During the hearing Verna Hills indicated that a lift station was also in need of repair or replacement.²

Another problem of Verna Hills is its inability to generate a sufficient revenue to cover its expenses. In addition, Verna Hills has been sued by one of its customers for \$150,000 because sewerage backed up into the customer's basement. These two problems combined with its other operating deficiencies caused Verna Hills to file bankruptcy in 1984. At the present time Mr. Bates is in Chapter 7 in the bankruptcy court and Verna Hills is in Chapter 11.

It appears that Verna Hills' lack of adequate revenues is the result of several problems associated with its administrative and managerial operations. Mr. Bates indicated during the hearing that the majority of Verna Hills' customers do not pay their sewer bills, and he attributed this to the lack of concern for the treatment plant by its customers. The only effort to collect

¹ Transcript of Evidence ("T.E."), August 28, 1985, page 12.

² Ibid., page 17.

these delinquent accounts has been through disconnect notices and attempted physical disconnections. In order to alleviate the billing problem, Verna Hills should send each customer a monthly bill with the customer's name and address on the bill. Then, if the customer fails to pay the bill on time the customer should be assessed an appropriate late charge. If the customer further refuses to pay, Verna Hills should follow 807 KAR 5:006, Section 11(3)(a), for nonpayment of bills.

The second reason for Verna Hills' lack of adequate revenues is its current rate for sewer service. Verna Hills' current rate of \$5.50 was established when the company began operations in 1972 and was approved by the Commission on February 4, 1975. During the hearing Mr. Bates was asked why Verna Hills had not come before the Commission in the past to request a rate increase to which he replied, "from the time I filed the bankruptcy, that kept me busy for the next two or three years."³ However, in June of 1985 Verna Hills notified its customers of an increase in rates from \$5.50 to \$20.00 without approval from the Commission. The Commission is of the opinion that the rate of \$5.50 appears to have been an inadequate rate for a number of years; however, any rate increase by Verna Hills will have to be filed with and approved by this Commission before it can be charged to the customers. Moreover, it is the responsibility of Mr. Bates as the owner of Verna Hills to assure that the utility requests

³ T.E., page 12

just compensation for the service it provides to the customers of Verna Hills. Therefore, Verna Hills should file a request for permanent and emergency rate relief as soon as feasible.

During the hearing, several of Verna Hills' customers served as spokespersons for the other customers. A number of suggestions were made on how to deal with the current management problems surrounding Verna Hills. These included total non-involvement by Mr. Bates in the operations of the treatment plant, or at a minimum limited control and involvement by Mr. Bates in the plant with a trustee as the overseer. Also, the customers of Verna Hills expressed interest in the formation of some type of sewer association which would have ownership of and control over the operations of Verna Hills' sewer treatment.

Another issue discussed during the hearing was the fact that Verna Hills has not maintained appropriate operating records nor has it filed an annual report with the Commission since 1982. Mr. Bates testified that he had not filed the annual reports during 1983 and 1984 because he did not have the appropriate records.⁴ However, he later indicated that he now has those records.⁵

Findings

The Commission, after reviewing the record and being advised, is of the opinion and finds that:

⁴ T.E., page 27.

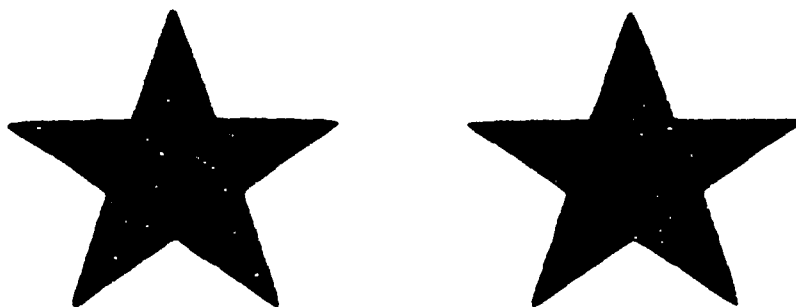
⁵ T.E., page 27.

1. Verna Hills' sewer operations are in violation of the Commission's rules and regulations as detailed in the Commission's engineering report dated October 8, 1984, and the Division of Water report dated November 1, 1984.

2. Verna Hills now has the information needed to file its 1983 and 1984 annual reports, and should do so within 60 days from the date of this Order.

3. Verna Hills should immediately file an application for

CORRECTION



***PRECEDING IMAGE HAS BEEN
REFILMED
TO ASSURE LEGIBILITY OR TO
CORRECT A POSSIBLE ERROR***

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2. Verna Hills now has the information needed to file its 1983 and 1984 annual reports, and should do so within 60 days from the date of this Order.

3. Verna Hills should immediately file an application for both permanent and emergency rate relief.

Orders

IT IS THEREFORE ORDERED that:

1. Verna Hills shall file with the Commission its 1983 and 1984 annual reports within 60 days from the date of this Order.

2. Verna Hills shall immediately proceed to collect all outstanding sewer bills and take all steps necessary to place its operations on a sound financial basis.

3. Verna Hills shall file with the Commission within 60 days of the date of this Order a plan for correcting its operational and financial deficiencies.

Done at Frankfort, Kentucky, this 8th day of November, 1985.

PUBLIC SERVICE COMMISSION

Richard D. Hemen Jr.
Chairman

Paul H. Dyer Jr.
Vice Chairman

James H. Williams
Commissioner

ATTEST:

Secretary